

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO.: 5:19-cv-00106-FL

BEAR INVESTMENTS, LLC,)
)
Plaintiff,)
)
v.)
)
PENN NATIONAL MUTUAL)
CASUALTY INSURANCE COMPANY,)
)
Defendant.)
)
)
_____)

**CONSENT ORDER STAYING THIS
ACTION PENDING THE APPRAISAL
AWARD AND AMENDING THE
SCHEDULING ORDER**

THIS MATTER, comes before the Court upon Plaintiff's Consent Motion to Stay this Matter and Amend Scheduling Order, in which the parties have moved to stay this case pending the issuance of an Appraisal Award and amend the Amended Scheduling Order entered in this case on September 24, 2020 [DE 21].

And for good cause shows, the Court orders the following:

1. This action is stayed pending the issuance of an appraisal award concerning the claim which is the subject of this action. Because the parties contemplate that issues concerning coverage will remain after the appraisal award is issued, the parties shall continue conducting discovery while this action is stayed.

2. Once the appraisal award is served on all parties to this action, the Amended Scheduling Order [DE 21] shall be amended as follows:

(a) Disclosures required by Federal Rule of Civil Procedure 26(a)(2), including reports from retained experts, shall be served by Plaintiff **no later than thirty (30) days after the stay is lifted**, and by Defendant **no later than sixty (60) days after the stay is lifted**.

Disclosures and reports by Plaintiff's rebuttal experts, if any, shall be served **no later than ninety (90) days after the stay is lifted**. Disclosures and reports by Defendant's sur-rebuttal experts, if any, shall be served **no later than one hundred-twenty (120) days after the stay is lifted**. The parties shall serve any objections to such disclosures, other than objections pursuant to Federal Rules of Evidence 702, 703, or 705, Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), Kumho Tire Co. v. Carmichael, 526 U.S. 137 (1999) or similar case law, within 14 days after service of the disclosures upon them. These objections should be confined to technical objections related to the sufficiency of the written expert disclosures (e.g., whether all of the information required by Rule 26(a)(2) has been provided, such as lists of prior testimony and publications). These objections need not extend to the admissibility of the expert's proposed testimony. If such technical objections are served, counsel shall confer or make a reasonable effort to confer before filing any motion based on those objections.

(b) Plaintiff shall make its retained experts available for depositions between **thirty (30) to sixty (60) days after the stay is lifted**. Defendant shall make its retained experts available for depositions between **sixty (60) to ninety (90) days after the stay is lifted**. Plaintiff shall make its rebuttal experts available for depositions between **ninety (90) and one hundred-twenty (120) days after the stay is lifted**. Defendant shall make its sur-rebuttal experts available for depositions between **one hundred-twenty (120) and one hundred-fifty days (150) after the stay is lifted**.

(c) Supplementations of disclosures under Federal Rule of Civil Procedure 26(e) shall be served at such times and under such circumstances as required by that rule. In addition, such supplemental disclosures shall be served **no later than one hundred-fifty (150) days after the stay is lifted**, except with respect to rebuttal experts.

(d) Any motion for leave to join additional parties or to otherwise amend the pleadings shall be filed by Plaintiff **no later than one hundred-eighty (180) days after the stay is lifted**, and by Defendant **no later than two hundred-ten (210) days after the stay is lifted**.

(e) Fact discovery shall be completed **no later than one hundred-eighty (180) days after the stay is lifted**. All discovery shall be commenced or served in time to be completed **no later than two hundred-ten (210) days after the stay is lifted**.

(f) Mediation settlement conference shall occur **no later than one hundred-eighty (180) days after the stay is lifted**. Alan Pittman is designated as the mediator in this Action. The parties may proceed with conducting mediation in this action while the matter is stayed.

(g) All dispositive motions shall be filed **no later than two hundred-ten (210) days after the stay is lifted**. Pursuant to Local Rule 7.1(e)(1), responses will be filed within 21 days after service of a dispositive motion. Pursuant to Local Rule 7.1(f)(1), reply briefs will be filed within 14 days after service of the response.

(h) Trial in this matter will commence not earlier than 60 days after a ruling is issued on any dispositive motion that was filed.

SO ORDERED, this the 16th day of June, 2021.



The Honorable Louise W. Flanagan
United States District Judge